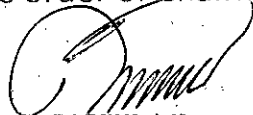


Form-A
FORM OF ORDER SHEET

Court of _____

Restoration Application No. 115/2024

S.No	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	30.01.2024	<p>The application for restoration of Service Appeal No. 892/2023 submitted today by Mr. Muhammad Adam Khan Advocate. It is fixed for hearing before Single Bench at Peshawar on _____. Original file be requisitioned. Parcha Peshi is given to counsel for the applicant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

(1)
BEFORE THE SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Restoration Appli. No. 115/2024

Diary No. 10886

Service Appeal No. 892/2023

Dated 30-1-2024

Bacha Khitab S/o Sardar Khitab (Ex-Chowkider) the Govt Primary School (Miangano) Gujar Garhi Mardan (Resident of Mohalla Miangano Cham Gujar Garhi Mardan.

..... Appellant

VERSUS

1. The Secretary, Elementary and Secondary Education Department KPK Peshawar.
2. The Director, Elementary and Secondary Education Department KPK Peshawar.
3. The District Education Officer Male, Elementary and Secondary Education Department KPK ~~Mardan~~
4. The Sub-Divisional Education Officer, Elementary and Secondary Education Department KPK ~~Mardan~~

..... Respondents

Application on behalf of the appellant for restoration of appeal.

Respected Sir.

1. That the captioned Appeal is pending adjudication on 14.09.2023 diary No 7531, till the decision of the relevant criminal case. (Copy of order sheet is attached).
2. That the relevant criminal case No. 119/SC of 2023 is decided on 12.01.2024 and the appellant is acquitted. (Copy of order of ADJ-VI Mardan attached).


It is prayed that the captioned appeal may be restored and may be decided on facts.

Dated 24.01.2024

Appellant


(Bacha Khitab)

Through


Muhammad Adam Khan
Advocate Mardan

12)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Adjourned Sine-die on
14-09-2023.

Service Appeal No. 892 /2023.

Bacha Khitab VS The Secretary etc;

AFFIDAVIT

I, Bacha Khitab/the Appellant, do hereby state on solemn affirmation that the contents of this application are true and correct to the best of my knowledge and belief.

Deponent

Bacha Khitab

(Bacha Khitab)



(A) 13)



Before The Service Tribunal Peshawar

Appeal No. 892 / 2023.

Bacha Khitab S/O Sardar Khitab (Ex-Chowkider The Govt Primary School, (Miangano Cham) Gujar Garhi Mardan. (Resident of Mohalah Miangano Cham Gujar Garhi Mardan.

Appellant.

Versus

1. The Secretary, The Elementary and Secondary Education Department KPK Peshawar.
2. The Director, The Elementary and Secondary Education Department KPK Peshawar.
3. The District Education Officer (Male) , The Elementary & Secondary Education Department Mardan.
4. The Sub, divisional Education Officer (Male) , The Elementary & Secondary Education Department Mardan.

Respondents.

Appeal Under Section-4 of the Service Tribunal Act, 1974, against the order of The D.E.O (M)/Respondent No.3 contained in Endst; No. 9724-26/PF dated 05.10.2013, whereby the Appellant is awarded the punishment of Removal from Service and Appeal there-against is rejected returned vide Endst; No. 1399 dated 15.02.2023 directing the Appellant to approach the proper forum.

Certified to be true copy

EVANER
Khyber Pakhtunkhwa
Service Tribunal.
Peshawar

30-1-24

(4)

A. No. 892/2023
Bacha Khital vs Govt



14.09.2023

1. Learned counsel for the appellant present. Mr. Fazal Shah Mohmand learned Additional Advocate General for respondents present.

2. Learned counsel for the appellant argued that criminal case on the basis of involvement of which appellant was dismissed from service is still pending adjudication and it has wrongly been mentioned in para 3 of the appeal that appellant is acquitted from the charges. He further argued that BBA confirmed on the basis of compromise by Additional Sessions Judge-Mardan which is evident from order No. 5 dated 10.01.2023 annexed with the main appeal. Learned District Attorney raised no objection upon *sine-die* adjournment. For fair and best administration of justice it will be more appropriate that instant appeal be adjourned *sine-die* till decision of criminal case by the competent court of law. Therefore, application is allowed and appeal is adjourned *sine-die*.

(Rashida Bano)
Member (J)

*KaleemUllah

Certified to be true copy
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 30-01-24
Number of Words 27
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13/15

1

**IN THE COURT OF LUBNA ZAMAN
ADDITIONAL SESSIONS JUDGE-VI, MARDAN**

Case No.119/SC of 2023

Date of institution: 01.12.2023

Date of decision: 12.01.2024

**The State versus ... 1. Bacha Khitab son of Sardar Khitab.
2. Murad Ali Shah son of Rasool Bacha both r/o
Mohallah Miangan Gujar Garhi, Mardan.
..... (Accused facing trial)**

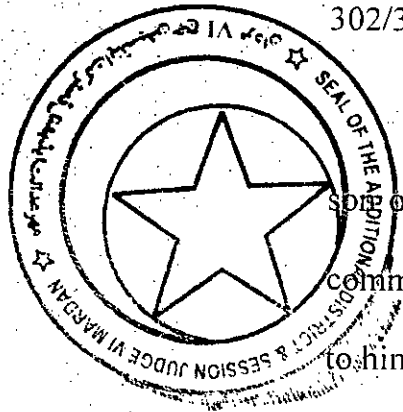
Order-3
12.01.2024

APP for the State present. Accused Bacha Khitab and
Murad Ali Shah on bail present. Original record received.

Accused facing trial has been booked in the instant
case FIR No.273 dated 30.04.2013 under sections
302/324/34 PPC, police station Saddar, Mardan.

Brief facts of the case are that complainant Younas
son of Pasham Gul has charged the accused facing trial for
committing the murder of his son Tayyub and causing injury
to him by way of firing; hence, the FIR was registered.

The case was fixed for attendance of accused but
perusal of record reveals that complainant party have
patched up the matter with accused facing trial at bail stage.
The complainant/father and mother namely Mst.Nihar
Begum have recorded their statements wherein they have
stated that they pardoned the accused facing trial in the



Lubna Zaman
LUBNA ZAMAN
ADDITIONAL SESSIONS JUDGE-VI, MARDAN

(6)

6

name of Almighty Allah by waving off their rights of Qisas and Diyat and expressed their no objection on acquittal of accused facing trial. Upon said compromise BBA petition of both the accused facing trial was confirmed by this court vide order dated 10.01.2023. As per record deceased Tayyib was unmarried and his parents are only legal heirs and they have expressed their no objection on acquittal of accused facing trial at bail stage.

As it is a verdict of superior courts that once a compromise is always a compromise, therefore, keeping in view the above discussion there is no probability of the accused being convicted in the present case; hence by invoking the provision of section 265-K CrPC accused facing trial Bacha Khitab and Murad Ali Shah are acquitted from the charge leveled against them. Accused facing trial are on bail, therefore, their sureties are discharged from liability of their bail bonds.

Case property be disposed of in accordance with law after expiry of period of appeal/revision.

File be consigned to record room after its completion and compilation accordingly.

Announced
12.01.2024

(Lubna Zaman)
Additional Sessions Judge-VI,
Mardan

LUBNA ZAMAN
ADDITIONAL SESSIONS JUDGE VI
MARDAN

